

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,)	2:06-cr-00251-PMP-GWF
)	2:13-cv-02359-PMP
Plaintiff,)	
)	
vs.)	ORDER
)	
JEROME WILLIAMS,)	
)	
Defendant.)	

Before the Court for consideration is Defendant Jerome Williams' Motion to Vacate Sentence Pursuant to 28 U.S.C. § 2255 (Doc. #130) filed December 30, 2013. The motion is fully briefed, and for the reasons set forth in the Government's Response (Doc. #133) the Court finds Defendant Williams' Motion (Doc. #130) must be denied.

Specifically, the Court finds Defendant's Motion (Doc. #130) is untimely because it was not filed within one (1) year of the date on which his Judgment of Conviction became final. 28 U.S.C. § 2255(f)(1). Even if Defendant Williams' Motion (Doc. #130) was deemed to be timely filed, it nonetheless fails on the merits.

Defendant's reliance on the ruling of the United States Supreme Court issued June 17, 2013, in *Alleyne v. United States*, 133 S. Ct. 2151 (2013), is misplaced. As argued by the Government in its Opposition (Doc. #133), under *Teague v. Lance*, 489 U.S. 288 (1989), *Alleyne* is not retroactively applicable to Defendant Williams' case. At sentencing, this Court found that Defendant Williams

1 used a dangerous weapon during a bank robbery, and thus assessed a 4-level
2 increase to Defendant's offense level under U.S.S.G. § 2B3.1(b)(2). The assessment
3 of this enhancement neither triggered a mandatory minimum sentence nor did it
4 increase the statutory maximum sentence for Defendant Williams' offense of
5 conviction. The 137-month sentence imposed by this Court was within the statutory
6 maximum sentence for the offense of conviction. As such, the sentence imposed by
7 this Court was appropriate in accord with the holding in *United States v. Booker*,
8 543 U.S. 220 (2005), and did not violate any rule established by the United States
9 Supreme Court in the *Alleyne* decision.

10 **IT IS THEREFORE ORDERED** that Defendant Jerome Williams' Motion
11 to Vacate Sentence (Doc. #130) is DENIED.

12 **IT IS FURTHER ORDERED** that Defendant Williams' Request for an
13 Evidentiary Hearing (Doc. #136) is also DENIED.

14 DATED: April 21, 2014.

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17 PHILIP M. PRO
18 United States District Judge
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